OPINION OF ADVOCATE GENERAL RUIZ-JARABO COLOMER
delivered on 11 November 1998 *

1. By the present action, brought pursuant to Article 169 of the EC Treaty, the Commission seeks a declaration by the Court of Justice that, by failing to adopt or communicate within the prescribed time-limit the laws, regulations and administrative provisions necessary in order to comply with

(a) Council Directive 93/74/EEC of 13 September 1993 on feedingstuffs intended for particular nutritional purposes, [1]

(b) Council Directive 94/28/EC of 23 June 1994 laying down the principles relating to the zootechnical and genealogical conditions applicable to imports from third countries of animals, their semen, ova and embryos, and amending Directive 77/504/EEC on pure-bred breeding animals of the bovine species, [2]

(c) Commission Directive 94/39/EC of 25 July 1994 establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes, [3]

(d) Commission Directive 95/9/EC of 7 April 1995 amending Directive 94/39/EC, [4] and

(e) Commission Directive 95/10/EC of 7 April 1995 fixing the method of calculating the energy value of dog and cat food intended for particular nutritional purposes, [5]

the French Republic has failed to fulfil its obligations under the Treaty.

* Original language: Spanish.

1 — OJ 1993 L 237, p. 23.

2 — OJ 1994 L 178, p. 66.

3 — OJ 1994 L 207, p. 20.

4 — OJ 1995 L 91, p. 35.

5 — OJ 1995 L 91, p. 39.

2. During the course of the pre-litigation procedure, the Commission sent to the French Republic the corresponding number of formal notices, dated 27 October 1995, requiring it to adopt the measures necessary in order to comply with the five directives referred to above, which should have been taken by no later than 30 June 1995. In response to those notices, the French authorities informed the Commission on 24 January 1996 that preparation of the requisite national legislation was under way.

3. On 16 December 1996, having received no further communication regarding the definitive approval of the legislation in question, the Commission sent to the French Government five reasoned opinions requiring it to adopt the necessary measures in order to comply with the directives. On 12 March 1997 the French Government replied to the opinion concerning Directive 94/28, informing the Commission that a draft law providing for its transposition was being debated in the Assemblée Nationale (National Assembly) and the Sénat (Senate).

4. In the absence of any evidence indicating that, after those dates, the French Republic adapted its legislation in accordance with the aforementioned directives, the Commission brought proceedings before the Court of Justice on 14 October 1997.

5. In its submissions to the Court of Justice, the French Government admitted that it had failed, as alleged, to comply with its obligations, acknowledging that it had not brought its domestic law into line with the directives within the time-limit prescribed. It stated, however, that it had drawn up various draft laws and regulations which would enable the contents of those directives to be incorporated into its legal order.

6. Since the French Republic has manifestly failed, as the Commission alleges, to comply with its obligations, the application should be granted.

7. In accordance with Article 69(2) of the Rules of Procedure, the defendant should be ordered to pay the costs, as applied for by the applicant.

Conclusion

8. I therefore propose that the Commission's application should be granted and that the Court should:

(1) declare that, by failing to adopt within the prescribed time-limit the laws, regulations and administrative provisions necessary in order to comply with

(a) Council Directive 93/74/EEC of 13 September 1993 on feedingstuffs intended for particular nutritional purposes,

(b) Council Directive 94/28/EC of 23 June 1994 laying down the principles relating to the zootechnical and genealogical conditions applicable to imports from third countries of animals, their semen, ova and embryos, and amending Directive 77/504/EEC on pure-bred breeding animals of the bovine species,

(c) Commission Directive 94/39/EC of 25 July 1994 establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes,

(d) Commission Directive 95/9/EC of 7 April 1995 amending Directive 94/39, and

(e) Commission Directive 95/10/EC of 7 April 1995 fixing the method of calculating the energy value of dog and cat food intended for particular nutritional purposes,

the French Republic has failed to fulfil its obligations under the Treaty;

(2) order the French Republic to pay the costs.